

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.156 OF 2005

Markos Williams. . .Applicant.

V/s.

Ms.Shruti K.Kale. . .Respondent.

Mr.Pankaj Bhatt with Ashok R. for applicant.

Mr.Dushyant Punekar h/f.Smt.Bhavana Jadhav for
respondent.

CORAM: A.M.KHANWILKAR, J

DATE : JUNE 30, 2006.

P.C. :

1. Heard counsel for the parties.
2. I find no infirmity in the view taken by the Court below that the issue as to whether the marriage between the party is solemnised and is a valid marriage will have to be considered by the family Court in the fact situation of the present case. The petitioner before the family Court is residing within the jurisdiction of the concerned family Court and it is common ground that the respondent is residing outside India, for which reason clause (c) of section 18(2) of the Foreign Marriage Act will come into play. The argument of the petitioner is that the original petition as filed itself concedes the

position that there was subsisting marriage of the respondent when she got married with the petitioner on 27th October, 1998. On this statement of fact noted in the petition, as presented by the respondent, it is evident that no legal marriage was solemnised between the petitioner and respondent on 27th October, 1998. One of the precondition of the legal marriage is that none of the parties have any subsisting marriage at the relevant time. This argument clearly overlooks the settled position that eventually it is the court who is invested with the power to declare that the marriage is void or subsisting between the parties. If any party approaches the Court for declaration that the marriage between the petitioner and respondent be declared as null and void, Family Court, in my opinion, is right in taking the view that it will have jurisdiction to adjudicate the said issue. Hence, no case for exercising revisional jurisdiction is made out. Dismissed.